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SPECIAL COMMITTEE ON THE SITUATION WITH
REGARD TO THE IMPLEMENTATION OF THE
DECLARATION ON THE GRANTING OF
INDEPENDENCE TO COLONIAL COUNTRIES
AND PEOPLES

WESTERN SAHARA

Working paper prepared by the Secretariat

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I. GENERAL

1. A detailed account of general conditions and developments relating to Western Sahara was provided in a previous working paper on the Territory (A/AC.109/695).

II. CONSIDERATION BY THE GENERAL ASSEMBLY AT ITS FORTY-EIGHTH SESSION

2. At the forty-eighth session of the General Assembly, reference was made to the question of Western Sahara by a number of representatives during their statements in plenary meetings (see A/48/PV.4-7, 10-13, 21-24 and 27). An account of the Fourth Committee's consideration of the item at the forty-eighth session is given in the related report of the Committee to the Assembly (A/48/656).

3. On 10 December 1993, on the recommendation of the Fourth Committee, the General Assembly adopted, without a vote, resolution 48/49 on the question of Western Sahara. The resolution reads as follows:

"The General Assembly,

"Having considered the question of Western Sahara,

"Reaffirming the inalienable right of all peoples to self-determination and independence, in accordance with the principles set forth in the Charter of the United Nations and in General Assembly resolution 1514 (XV) of 14 December 1960, containing the Declaration on the Granting of Independence to Colonial Countries and Peoples,

"Recalling its resolution 47/25 of 25 November 1992,

"Recalling also the agreement in principle given on 30 August 1988 by the Kingdom of Morocco and the Frente Popular para la Liberación de Saguia el-Hamra y de Río de Oro to the proposals of the Secretary-General of the United Nations and the current Chairman of the Assembly of Heads of State and Government of the Organization of African Unity in the context of their joint mission of good offices,

"Recalling further Security Council resolutions 621 (1988) of 20 September 1988, 658 (1990) of 27 June 1990, 690 (1991) of 29 April 1991 and 725 (1991) of 31 December 1991 relating to the question of Western Sahara,

"Recalling with satisfaction the entry into force of the cease-fire in Western Sahara on 6 September 1991, in accordance with the proposal of the Secretary-General accepted by the two parties,

"Noting the adoption by the Security Council on 2 March 1993 of resolution 809 (1993),

"Taking note of the letter dated 4 August 1993 from the President of the Security Council addressed to the Secretary-General, 1/

"Considering that the holding of talks between the two parties at Laayoune from 17 to 19 July 1993 is a positive development,

"Having examined the relevant chapter of the report of the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples, 2/

"Having also examined the report of the Secretary-General, 3/

"1. Takes note with appreciation of the report of the Secretary-General;

"2. Pays tribute to the Secretary-General and to his Special Representative for their action with a view to settling the question of Western Sahara by the implementation of the settlement plan;

"3. Reiterates its support for further efforts of the Secretary-General for the organization and supervision by the United Nations, in cooperation with the Organization of African Unity, of a referendum for self-determination of the people of Western Sahara, in conformity with Security Council resolution 658 (1990) and 690 (1991) by which the Council adopted the settlement plan for Western Sahara;

"4. Endorses the contents of the letter dated 4 August 1993 from the President of the Security Council to the Secretary-General 1/ in which the members of the Council, inter alia, fully supported the efforts of the Secretary-General to make swift progress on the preparations for holding a referendum in accordance with Council resolution 809 (1993), noted that the Identification Commission had begun its preparatory work, welcomed the reaffirmation by the two parties of their commitment to the implementation of the peace plan in its entirety, in particular their encouraging responses to the compromise proposal of the Secretary-General concerning the interpretation and application of the criteria, and shared his hope that direct talks between the two parties will soon resume;

"5. Requests the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples to continue to consider the situation in Western Sahara, bearing in mind the ongoing referendum process, and to report thereon to the General Assembly at its forty-ninth session;

1/ S/26239.

2/ A/48/23 (Part V), chap. IX.

3/ A/48/426.

"6. Invites the Secretary-General to submit to the General Assembly at its forty-ninth session a report on the implementation of the present resolution."

III. GOOD OFFICES OF THE SECRETARY-GENERAL

4. An account of a series of contacts and consultations undertaken in 1993 by the Secretary-General in the exercise of his good offices, within the context of General Assembly resolution 47/25 of 25 November 1992, is given in his report of 27 September 1993 to the Assembly at its forty-eighth session (A/48/426). Since the circulation of that report, the Secretary-General, in close cooperation with the current Chairman of the Organization of African Unity (OAU), has continued to exercise his good offices with the parties concerned.

5. On 24 November 1993, in a report to the Security Council, 4/ the Secretary-General provided an account of the further efforts made by himself and his Special Representative since his last report in order to resolve the issues still standing in the way of the implementation of the settlement plan for Western Sahara. 5/

6. In his report, 4/ the Secretary-General indicated that after arriving in the mission area towards the end of May 1993, Mr. Erik Jensen, Chairman of the Identification Commission, and his team had held intensive discussions with the authorities of both parties on modalities which would enable identification and registration to proceed in a thorough and judicious manner. He also recalled that immediately following the direct talks at Laayoune from 17 to 19 July 1993, the Chairman had presented to both parties a proposed outline of a work programme and a draft registration form. After completing another round of discussions, the Chairman had put forward further firm proposals to both parties, including a revised timetable for the initial stages and a new registration form in Arabic/French and Arabic/Spanish versions.

7. On 17 October 1993, the Chairman had addressed a letter to the Government of Morocco and the Frente Popular para la Liberación de Saguia el-Hamra y de Río de Oro (Frente POLISARIO), confirming that the start of the operations would be announced on 1 November 1993 and that during the following days the population would be informed of the launching of the registration operations. Also, the revised lists of the 1974 census and the instructions for registration would be published and made available to the population, and the registration forms would be distributed.

8. According to the report of the Secretary-General, 4/ the launching of the process leading to identification and registration had been officially announced on 3 November 1993. Also, the revised lists of the 1974 census had been announced and made accessible to the population in Laayoune on 22 November. On the same day, the Frente POLISARIO, which had indicated its readiness to begin

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4/ S/26797.

5/ See S/21360 and S/22464 and Corr.1.

the process as soon as similar action was taken on the Moroccan side, had taken steps, in consultation with the Identification Commission, to make the revised lists available to the population in one refugee camp. It was further agreed with the Moroccan authorities that the registration forms would be distributed on 29 November 1993. According to indications received, similar action would have been taken by the Frente POLISARIO on that date.

9. In a previous report, 6/ the Secretary-General observed that the efforts made subsequent to Security Council resolution 809 (1993) of 2 March 1993 had led to the acceptance by the Frente POLISARIO of all the criteria for voter eligibility enunciated by his predecessor, thus signifying a favourable change in the earlier position of the Frente POLISARIO which had consistently objected to several of those criteria. In his report of 24 November 1993, 4/ the Secretary-General indicated that the deadlock had since shifted to their interpretation and application. While also accepting oral testimony in support of individual applications for participation in the referendum, the Frente POLISARIO had maintained substantial reservations on some other key provisions of the proposed compromise on the interpretation and application of the criteria for voter eligibility, and had requested amendments to the text. On the other hand, the Moroccan party stressed that, in spite of its reservations, it had acquiesced in the compromise in view of the authority vested in the Secretary-General by the settlement plan, and rejected any attempt at modifying the compromise text in its present form.

10. As a compromise, the Secretary-General proposed that the potential electorate encompass members of all the Saharan tribal subfractions, but only those which were represented in the 1974 census, regardless of the number of individuals from these subfractions who were counted in the 1974 census. 7/ All applicants for participation in the referendum would have to cross that first hurdle before claiming eligibility to vote under any of the pertinent criteria. That proposal, which took the 1974 census as the agreed benchmark, was in the view of the Secretary-General 8/ a sound point of departure for determining potential participation in the referendum, in the absence of an agreement on which specific Saharan tribal units were linked with the Territory. The Frente POLISARIO did not agree with that compromise, as it remained concerned about the possible inclusion, in the electorate, of members of some tribal units which it did not consider as existing in the Territory.

11. On 27 October 1993, the following statement was issued by the Spokesman for the Secretary-General: 9/

> "As announced last week, the two parties to the settlement plan for Western Sahara, Morocco and the Popular Front for the Liberation

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6/ S/26185.

7/ See S/26185, annex I.

8/ See S/26797, para. 27.

9/ See United Nations press release SG/SM/5142/Rev.1.

of Saguia el-Hamra and Río de Oro (Frente POLISARIO), were scheduled to resume, on 25 October in New York, direct talks initiated three months ago at Laayoune, with the Special Representative of the Secretary-General, Sahabzada Yaqub-Khan, as active United Nations observer. While the Memorandum of Understanding which laid down the ground rules for the talks gave to each party the right to choose the composition of its delegation, the presence of former Frente POLISARIO officials in the Moroccan delegation was not considered by the Frente POLISARIO delegation to be conducive to a propitious climate for dialogue, and the Frente POLISARIO delegation found it impossible to meet with the other party.

"The Secretary-General deeply regrets that the parties have not found it possible to accept any options offered by his Special Representative, in consultation with members of the Security Council, as possible ways of overcoming the procedural difficulties and enabling the resumption of direct talks. Nevertheless, he remains hopeful that a dialogue between the two parties may be resumed in due course.

"In the meantime, the Secretary-General, with the support of the Security Council, is determined to continue efforts for the implementation of the settlement plan and to proceed with the identification and registration of potential voters in the referendum of Western Sahara. At this critical juncture, he appeals to the two parties to do their utmost to live up to their obligations under the settlement plan."

12. In a letter dated 6 December 1993, 10/ the President of the Security Council informed the Secretary-General that the members of the Council had agreed that his compromise proposal (see para. 10 above) was a sound framework for determining potential participation in the referendum for self-determination of the people of Western Sahara as foreseen in the settlement plan. They welcomed his determination to move ahead and proceed with voter registration and identification. The members of the Council reaffirmed the role of the Secretary-General as guarantor of an objective and impartial referendum and expected any difficulties with the compromise to be resolved by early 1994.

13. In pursuance of Security Council resolution 809 (1993), his report to the Council of 24 November 1993 4/ and the letter addressed to him by the President of the Security Council dated 6 December 1993, 10/ the Secretary-General submitted a report to the Security Council on 10 March 1994, 11/ giving an account of subsequent developments.

14. In his report, the Secretary-General stated that pursuant to the letter of the President of the Security Council of 6 December 1993, his Special Representative, Sahabzada Yaqub-Khan, had visited the mission area from 2 to

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10/ S/26848.

11/ S/1994/283.

13 January 1994 for consultations with the parties and the neighbouring countries on the current situation and ways of resolving the remaining difficulties. At Marrakesh, he had been received by His Majesty King Hassan II of Morocco. In the area of Tindouf, he had met informally with Frente POLISARIO officials and was the guest of honour at a dinner hosted by the Secretary-General of the Frente POLISARIO, Mr. Mohammed Abdelaziz. At Algiers, he had held consultations with the Minister for Foreign Affairs, Mr. Mohamed Salah Dembri. At Nouakchott, he had been received by the President of Mauritania, Mr. Maaouya Ould Sid'Ahmed Taya; meetings had also been held with the Minister for Foreign Affairs and Cooperation, Mr. Mohamed Salem Ould Lekhal, and the Minister of Interior a.i., Mr. Ahmed Ould Minih. The Special Rapporteur had provided assurances to allay the concerns of the Frente POLISARIO that, on the basis of the compromise, thousands of individuals foreign to the Territory might be included in the electorate. Those assurances had been confirmed and further elaborated in a letter dated 4 February 1994 from the Special Representative to the representative of the Frente POLISARIO in New York, to follow up the explanatory note on the compromise that he had addressed to the parties on 27 September 1993. 12/

15. The Secretary-General recalled that a preparatory meeting between the Identification Commission and Moroccan officials, scheduled to be held on 25 October 1993 at Laayoune, had had to be postponed because its date coincided with the expected resumption of direct talks between the two parties in New York. As a result, the timetable the two parties had agreed upon, had had to be adjusted. As indicated above, the launching of voter registration and identification was officially announced on 3 November 1993 by the Chairman of the Identification Commission. The Chairman then held a further series of discussions in the course of that month with both parties to adhere as far as possible to the proposed timetable. During those consultations, both sides confirmed their intention to proceed expeditiously with the initial stage of the registration process in cooperation with the United Nations Mission for the Referendum in Western Sahara (MINURSO).

16. In late November 1993, the revised lists of the 1974 census, together with the supplement listing the names of additional persons expected to reach 18 years of age by 31 December 1993, had been made accessible at 10 different locations in Laayoune and at several places in the El-Aiun refugee camp in the Tindouf area.

17. The Secretary-General observed that the assurances that objectivity and sound judgement would govern the Identification Commission at every stage of its work had thus far proved to be insufficient to allay the concerns of the Frente POLISARIO over the compromise on the interpretation and application of the criteria and procedures for establishing the identity of potential voters, which he had presented to the parties during his visit to the mission area in early June 1993. 7/ In the meantime, the preliminary registration of applicants for participation in the referendum had proceeded in Laayoune and the Tindouf area. The completion of the identification and final registration of all eligible

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12/ Ibid., annexes I and II.

voters remained uncertain, however, in the absence of agreement by the Frente POLISARIO to the compromise as a whole.

18. The Secretary-General reported that during the four months preceding March 1994 he had held consultations at the highest level with the two parties, the two neighbouring countries and OAU, to find ways of settling the remaining difficulties. He remained confident that his proposals constituted a sound compromise and that they could be implemented in a fair and judicious manner.

19. The Secretary-General recalled that the settlement plan stated that the goal on which all were agreed was the holding of a free, fair and impartial referendum for the people of Western Sahara, organized and conducted by the United Nations in cooperation with OAU and without any military or administrative constraints. Four essential conditions had to be met for that goal to be achieved and for MINURSO to be able to carry out its responsibilities effectively and impartially: support and backing of the Security Council; full cooperation of the two parties; cooperation and support of the neighbouring countries; and the necessary financial resources.

20. Taking fully into account the observations set forth above, and in view of the decision to ensure that the referendum takes place without any further delays, the Secretary-General suggested in his report that the Security Council might wish, at the present stage, to consider the options set out below.

Option A

21. The Security Council would decide that the United Nations should proceed to hold the referendum regardless of the cooperation of either party. The process of identification and registration of all eligible voters should be completed on the basis of the compromise proposal of the Secretary-General, the terms of reference of the Identification Commission and the relevant provisions of the settlement plan.

Option B

22. The Security Council would decide that the Identification Commission should continue its work during a prescribed period. Meanwhile, the United Nations would continue its efforts to obtain the cooperation of both parties on the basis of the compromise proposal of the Secretary-General. At the end of the prescribed period, the Security Council would review the progress achieved and, on the basis of that review, would decide on the next course of action for the fulfilment of the United Nations mandate for Western Sahara.

Option C

23. The Security Council would conclude, on the basis of the report of the Secretary-General, that the cooperation of both parties in the completion of the registration and identification process could not be obtained at that time and would decide either that the whole MINURSO operation should be phased out within a given time-frame or that the registration and identification process should be suspended but that a reduced United Nations military presence should be retained to encourage respect for the cease-fire.

24. At its 3355th meeting, on 29 March 1994, the Security Council adopted resolution 907 (1994). The operative paragraphs of the resolution read as follows:

[The Security Council]

"1. Welcomes the report of the Secretary-General on the situation concerning Western Sahara of 10 March 1994;

"2. Welcomes the compromise proposal of the Secretary-General concerning the interpretation and application of criteria for voter eligibility (S/26185) as a sound framework for determining eligibility for participation in the referendum for self-determination of the people of Western Sahara; and takes note of the explanatory note of the Special Representative dated 27 September 1993, and the letter of the Special Representative dated 4 February 1994 included in the annexes to the Secretary-General's report of 10 March 1994;

"3. Expresses its deep concern over continuing difficulties and delays in the work of the Identification Commission;

"4. Agrees to the course of action as outlined in Option B in the Secretary-General's report of 10 March 1994, that the Identification Commission should complete the analysis of all applications received and proceed with the identification and registration of potential voters by 30 June 1994, on the basis of the Secretary-General's compromise proposal, the terms of reference of the Identification Commission, and the relevant provisions of the settlement plan; and supports the Secretary-General's intention to continue his efforts to obtain the cooperation of both parties on that basis;

"5. Requests, in this context, the Secretary-General to report to the Council not later than 15 July 1994 on progress achieved in the work of the Identification Commission as well as other aspects relevant to the fulfilment of the settlement plan with a view to deciding on further action necessary for fulfilment of the United Nations mission in Western Sahara;

"6. Urges strict compliance with the timetable for Option B as laid out in paragraph 24 (a) of the Secretary-General's report of 10 March 1994, with a view to holding the referendum by the end of 1994;

"7. Calls for full cooperation with the Secretary-General, his Special Representative and the Identification Commission in their efforts to implement the settlement plan, which has been accepted by both parties;

"8. Decides, in the event that the Secretary-General notifies the Council in the report called for in paragraph 5 above that the referendum cannot be held by the end of 1994, and in view of obligations of the parties to cooperate fully with the Secretary-General, to consider MINURSO's future, including an examination of options regarding its mandate and continued operations;

"9. Urges the Secretary-General, in the context of the implementation of paragraph 4 above, to make every effort to maintain MINURSO at the strength needed to carry out Option B, and further invites him to make proposals for the necessary adjustments to the present role and strength of MINURSO, as part of the report called for in paragraph 5 above;

"10. Decides to remain seized of the matter."

IV. POLITICAL AND OTHER DEVELOPMENTS

25. In a statement at the forty-eighth session of the General Assembly on 27 September 1993 (A/48/PV.4), Mr. Abdellatif Filali, Minister of State for Foreign Affairs and Cooperation of Morocco, said that with regard to the so-called question of Western Sahara, the settlement plan was being implemented and the Secretary-General continued to bring all new developments to the attention of the Security Council. The Kingdom of Morocco, which had always cooperated with the Secretary-General and had striven to facilitate his mission, had given its consent in principle to the compromise he had proposed in the interpretation and application of the criteria for voter eligibility. The Kingdom of Morocco was confident that the Secretary-General would not fail to inform the Security Council of Morocco's sincere and loyal cooperation and its constant readiness to implement the provisions of Council resolution 809 (1993) in all its aspects. It was in the same spirit of cooperation and reconciliation that Morocco had agreed to the Laayoune meeting of the previous July, where Saharans, in particular, from within the territory and from the region of Tindouf, had taken part and initiated a brotherly and positive dialogue.

26. Speaking as a petitioner at the 3rd meeting of the Fourth Committee on 12 October 1993 (see A/C.4/48/SR.3), a representative of the Frente POLISARIO said that after 10 years of war, the work of the United Nations and OAU had led to the drawing up of a settlement plan by both sides and by the Security Council. According to that plan, a referendum on self-determination was to be organized. The referendum scheduled for January 1992 had not been held, however. As soon as MINURSO had started the deployment of its observers, after the cease-fire of 6 September 1991, the Kingdom of Morocco had changed its position, calling into question the crux of the settlement plan, that is to say, the issue of the electorate for the referendum. In paragraph 61 of the plan, 13/ which both sides had negotiated and accepted, it had been established that all Western Saharans counted in the 1974 census undertaken by the Spanish authorities, and aged 18 years or over, would have the right to vote, whether currently present in the Territory or outside as refugees for other reasons.

27. The Moroccan side, however, had presented a list of 120,000 Moroccan citizens, double the number of the Saharan voters, and had demanded their participation in the referendum. Morocco had made and continued to make the implementation of the settlement plan conditional upon acceptance by the United

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13/ S/21360.

Nations, OAU and the Frente POLISARIO of a result that had been falsified in order to legitimize the illegal annexation of Western Sahara.

28. The representative of the Frente POLISARIO reiterated the Saharan people's deep respect for the letter and spirit of the settlement plan, as well as its willingness to continue cooperating with the efforts of the Secretary-General. It had been in the same spirit that the Frente POLISARIO had gone to Laayoune on 17 July 1993 in order to begin a direct dialogue with Morocco under the auspices of the United Nations.

29. The international community, the United Nations and OAU had an inescapable responsibility to support the peace effort, and the Saharan people trusted that all concerned would intensify their efforts to guarantee the right of that people to exercise its inalienable right to self-determination and independence.

30. It was essential for the referendum for self-determination that all guarantees should be provided in order for the result to be the free and sovereign expression of the people of Western Sahara.

31. At its 12th meeting, on 29 October 1993, the Fourth Committee adopted, without a vote, draft resolution A/C.4/48/L.4 on the question of Western Sahara. On 10 December 1993, on the recommendation of the Fourth Committee, the General Assembly adopted the draft resolution without a vote as resolution 48/49 (see para. 3 above).

32. In his statement at the opening session of the Special Committee on 15 February 1994, the representative of the Secretary-General said that Western Sahara continued to be of concern to the international community. The General Assembly, for the fifth time, had recently adopted a consensus resolution on the question. In that resolution, the Assembly, inter alia, took note of the progress made in the settlement of the issue and reiterated its support for further efforts on the part of the United Nations in the organization and supervision, in cooperation with OAU, of a referendum for self-determination of the peoples of Western Sahara, in conformity with Security Council resolutions 658 (1990) of 27 June 1990 and 690 (1991) of 29 April 1991. He expressed his firm belief that the unanimity over five consecutive years reflected the political will of the international community to bring about a final settlement of the conflict as quickly as possible (A/AC.109/PV.1429).

33. Moreover, the Security Council, which remained seized of the matter, was continuing to pay close attention to the development of the current diplomatic initiatives, on the basis of the reports that the Secretary-General was submitting at regular intervals. In his report of 24 November 1993, 4/ the Secretary-General had informed the Council of the reception given by the parties to the compromise proposals that he had put forward concerning the interpretation and application of the criteria governing eligibility to vote, which were set forth by his predecessor in his report of 19 December 1991 to the Security Council. 14/ Meanwhile, the Organization would continue

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14/ S/23299.

preparations in the field for the organization of the self-determination referendum in 1994 (A/AC.109/PV.1429).

34. On 18 February 1994, the Commission on Human Rights, meeting at Geneva adopted, without a vote, resolution 1994/6 on the question of Western Sahara, which was similar in content to General Assembly resolution 48/49.

35. On 25 and 26 April 1994, the Deputy Special Representative of the Secretary-General for Western Sahara and Chairman of the Identification Commission met in the Tindouf area with senior representatives of the Frente POLISARIO. After a series of negotiating sessions, Mr. Mustafa Bachir Sayed, Deputy Secretary-General of the Frente POLISARIO and Coordinator with MINURSO, expressed the agreement of the Frente POLISARIO to proceed with the first steps of the referendum process in accordance with Security Council resolution 907 (1994) of 29 March 1994. Completed application forms would be made available to MINURSO during the month of May for preliminary analysis and to permit identification and registration to begin as of 1 June in accordance with the calendar set out in the report of the Secretary-General. 11/ On 27 April, the Chairman of the Identification Commission confirmed this understanding and the main elements agreed to in letters addressed to both parties. 15/

36. On 1 June 1994, the Chairman of the Identification Commission announced that the identification and registration of potential voters would begin on 8 June. The process of identifying applicants and registering those eligible to vote in the referendum of self-determination in Western Sahara would begin in the Territory itself and in the refugee camps at Tindouf. In a joint statement, Mr. Driss Basri, Minister of the Interior of Morocco, and Mr. Erik Jensen, Deputy Special Representative of the Secretary-General, said that registration of voters would start in a schoolhouse at Laayoune, the main town in the former Spanish colony. 16/

37. It was also reported on 1 June 1994 that a large number of applications had already been received from both sides. These persons were required to provide evidence establishing their identity and proof of eligibility to vote. The United Nations Identification Commission would verify the material offered as evidence before registering the eligible persons on a preliminary voters' list. 16/

38. The Eleventh Ministerial Conference of the Non-Aligned Countries, held at Cairo from 31 May to 3 June 1994, noted the developments in resolving the question of Western Sahara and reiterated the support of the Movement of Non-Aligned Countries for the efforts of the United Nations to organize and supervise a referendum in accordance with Security Council resolutions. 17/

15/ Reuters dispatch, Rabat, 28 April 1994.

16/ Reuters dispatches, Rabat, 31 May and 1 June 1994.

17/ NAC/M.11/DOC3/DRAFT/REV.2.